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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,939	09/08/2003	Nancy Klotz	28,474	8760

7590
Charles E. Temko
22 Marion Road
Westport, CT 06880

03/20/2007

EXAMINER

SHAH, PARAS D

ART UNIT

PAPER NUMBER

2609

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/656,939

Applicant(s)

KLOTZ, NANCY

Examiner

Paras Shah

Art Unit

2609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/08/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. This communication is in response to the Application filed on 09/08/2003.

Drawings

2. The drawings are objected to because for Figure 2, no numbers are given for the various components shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: Figure 2 as referred to in the drawings has not been mentioned in the Specification (Detailed Description of the Preferred Embodiments).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 rejected under 35 U.S.C. 102(b) as being unpatentable by Cyber Records (Cyber Records Website, "MediChart Express Features" Mar. 28 2002).

As to claims 1 and 2, Cyber Records discloses a system for generating medical reports and associated documentation using stored data bases and related software programming for assembling information, the improvement comprising: voice-recognition switching means (see Bullet 4), a stored medical vocabulary (see Bullet 4), data imaging storage means (see Bullet 10), and means for storing commonly used text data for selective recall (see Bullet 11); whereby said switching means, using voice-recognition, selectively assembles an individual record (see Bullet 2) (e.g. It is inherent that the individual record will be assembled and in this case incrementally) .

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cyber Records as applied to claim 2 above, in view of Shipp (US 6,031,526).

Cyber Records discloses the displaying of an assembled record (see Bullet 2). However, Cyber Records does not specifically disclose the use of voice commands to edit the displayed record prior to printing. Shipp does disclose the use of voice commands (see Col. 3, lines 44-45) to edit (see Col. 3, line 42) the displayed record (see Col. 3, line 36) prior to printing (see Col. 2, line 37-38) (e.g. It is inherent that once edited the file will be printed. Editing occurs while being displayed). It would have been obvious to one of ordinary skilled in the art to have combined the generation of medical reports presented by Cyber Records with the editing presented by Shipp. The

motivation to have combined the two references include the correction of unclear passages and savings in time as well as printing and reviewing (see Col. 1, lines 47-54)

9. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shipp (US 6,031,526, date of patent: 02/29/2000) in view of Singer (US 6,587,830).

As to claims 1 and 2, Shipp discloses generating medical reports and associated documentation using stored databases and related software programming for assembling information, the improvement comprising: voice-recognition switching means (see Col.3, lines 47-49 and Col. 3 lines 26-27) (e.g. A voice recognition constantly switches between a known words and dictated words), data imaging storage means (see Col. 3, lines 5-10) (e.g. A still image of a video is captured and stored in the storage device mentioned), and means for storing commonly used text data for selective recall (see Col. 3, lines 47-48) (e.g. The voice recognition has been taught to recognize certain words and commands and it is inherent that recall is taking place for comparison to the dictation of the individual); whereby said switching means, using voice-recognition (e.g. It is inherent that the voice recognition engine switches between a known database containing known patterns (see. col. 3, line 24), selectively assembles an individual record (see Col. 1, line 9-10, line see Col. 2, line 6-8) (e.g. It is implied that the medical procedure is of an individual by the comparison drawn to a patient) (see also Abstract) (e.g. It is seen that a medical record is generated using images and voice into a word processing document). However, Shipp does not specifically disclose the use of a medical vocabulary. Singer does disclose the use of a medical vocabulary when forming medical vocabulary (see Col. 3, lines 65-66 and Col.

4 lines 1-5). It would have been obvious to one of ordinary skilled in the art at the time the invention was made to have combined the generating of medical reports presented by Shipp with the inclusion of medical terms presented by Singer. The motivation to have combined the two references include the use of free dictation without using specific words (see Col. 3, lines 31-42).

As to claim 3, Shipp discloses the displaying of an assembled record (see Col. 3, lines 37-38); and Shipp does disclose the use of voice commands (see Col. 3, lines 44-45) to edit (see Col. 3, line 42) the displayed record (see Col. 3, line 36) prior to printing (see Col. 2, line 37-38) (e.g. It is inherent that once edited the file will be printed. Editing occurs while being displayed).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dewaele (US 6,047,257) is cited to teach the identification of medical images through speech recognition. Taira (US PGPub 2003/0144886) is cited to teach the generation of textual medical reports.

The NPL document by Cyber Records ("Speech Recognition in Electronic Medical Records: A Review of Industry Impact") is cited to teach the introduction of MediChart Express.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paras Shah whose telephone number is (571)270-1650. The examiner can normally be reached on MON.-FRI. 7:30a.m.-5:00p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xiao Wu can be reached on (571)272-7761. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.S.

03/15/2007


XIAO WU
SUPERVISORY PATENT EXAMINER